

Remarks

Claims 1 and 9-12 are pending. Claims 1 and 9-12 are rejected.

Claim 1 is rejected under 35 U.S.C. 103(a) as being obvious over U.S. Pat. No. 5,765,138 (Aycock) and U.S. Pat. Pub. 2002/0010614 (Arrowood). Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being obvious over Aycock, Arrowood and U.S. Pat. No. 6,154,753 (McFarland). Claim 11 is rejected under 35 U.S.C. 103(a) as being obvious over Aycock, Arrowood and U.S. Pat. Pub. 2002/0138377 (Weber). Claim 12 is rejected under 35 U.S.C. 103(a) as being obvious over Aycock, Arrowood, Weber and "Auditor selection and audit committee characteristics" (Abbott).

The Examiner has not found each and every limitation of the claims.

With regard to claim 1, Aycock does not receive client information including an industry code identifying a type of industry of a product or service provided by a client. Instead, Aycock merely discusses a supplier interface that permits a supplier to receive information from and provide information to a database:

The system may also include a supplier interface enabling a supplier to send and receive information to the supplier evaluation system. The supplier interface enables a supplier to electronically download the RFP/RFQ, which may be in the form of an executable code or a protected data file. The supplier interface may also enable the supplier to electronically upload the supplier responses to the supplier evaluation system. In addition, the supplier interface may allow a supplier to selectively access the databases of the supplier evaluation system in order to receive information on existing vendor performance reports or product updates, as well as download specifications relevant to the particular RFP/RFQ.

According to the present invention, the supplier self-evaluation system comprises a RFP/RFQ template file comprising the project requirements determined by the buyer, a plurality of specification files that include selected portions of standard specifications referenced in the RFP/RFQ, a communication module enabling access to a remote database

having complete files of the standards identified in the RFP/RFQ, and a word processing based computer system having an access routine to selectively access the specification files and the remote database in response to user requests. The access routine selectively accesses the local specification files and the communication software to provide information to a user operating the word processing system based on user requests for information. In response to user inputs, the word processing based system generates a vendor response file including the supplier responses to the requirements identified in the RFP/RFQ template file. Thus, the supplier self-evaluation system enables interactive access to data files necessary for completion of the supplier responses to the RFP/RFQ requirements in an efficient manner.

Aycock, col. 3, l. 62 - col. 4, l. 40.

Nothing in the above discloses receiving an industry code. For example, an "RFP/RFQ . . . in the form of an executable code" is, of course, not an industry code identifying a type of industry of a product or service provided by a client. An executable code is software in a form that can be run by a computer. The mere mention of the word "code" in Aycock does not somehow disclose the limitation at issue.

With regard to claim 1, Aycock does not receive client information including a type of quality audit: (1) The Examiner admits that "Aycock . . . does not disclose . . . a type of quality audit . . .," Office Action, February 22, 2010, p. 3; and (2) The Examiner does not cite any portions of Arrowood for this limitation, see, Office Action, February 22, 2010.

With regard to claim 1, Aycock does not generate a formal quotation using a computer database application for an audit based on the client information and the auditor staffing requirements information: (1) The Examiner admits that "Aycock . . . does not disclose "receive" auditor staffing requirements "information . . .," Office Action, February 22, 2010, p. 4; and (2) The teachings of Aycock that the Examiner relied on to support this limitation (*i.e.*, col. 1, ll. 45-48) are part of the background section in Aycock; they describe teachings in the prior art for Aycock.. The Examiner has not shown that these teachings are themselves incorporated into Aycock.

The Examiner fails to establish a *prima facie* case of obviousness.

The following conclusory reasoning is repeatedly used by the Examiner in rejecting each of claims 1 and 9-12:

[i]t would have been obvious [to combine the prior art references]
[s]ince the claimed invention is merely a combination of old
elements, and in the combination each element merely would have
performed the same function as it did separately, and one of
ordinary skill in the art would have recognized that the results of
the combinations were predictable.

Office Action, February 22, 2010, pp. 4-9.

“The Federal Circuit[, however,] has stated that ‘rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.’” MPEP 2142. Here, the Examiner fails to provide any such reasoning justifying the conclusions that “in the combination each element merely would have performed the same function as it did separately” and “one of ordinary skill in the art would have recognized that the results of the combinations were predictable.” Additionally, “[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness.” MPEP 2142 (emphasis added). The Examiner cannot carry his initial burden merely through the repeated use of the above conclusory and unsupported reasoning—especially when trying to justify the combination of numerous references. To allow such would improperly create circumstances where the Applicant is effectively burdened with the initial task of establishing nonobviousness. See, MPEP 2142 (“If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.”)

The dependent claims are patentable because they depend from claim 1.

Applicant submits that the claims are in a condition for allowance. Applicant respectfully requests a notice to that effect. Applicant's Attorney invites a telephone conference if the Examiner believes that it will advance the prosecution of this application.

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Respectfully submitted,
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